

KAREN P. HEWITT
United States Attorney
DAVID M. McNEES
Special Assistant U.S. Attorney
California State Bar No. 216612
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893
Telephone: (619) 557-5979
E-mail: david.mcnees@usdoj.gov

Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONE 2006 MERCEDES BENZ CLS 55
CA LICENSE NO. 6CQU031,
VIN WDDDJ76X86A031811,
ITS TOOLS AND APPURTENANCES,

ONE 2003 LAND ROVER RANGE ROVER
CA LICENSE NO. 6AMN568,
VIN SALMB11403A109536,
ITS TOOLS AND APPURTENANCES,

\$10,826.00 IN U.S. CURRENCY,

Defendants.

FILED
08 JUL -8 PM 1:07
U.S. DISTRICT COURT
BY: *EC* DEPUTY

Civil No. **'08 CV 1220 IEG RBB**
COMPLAINT FOR
FORFEITURE

By way of complaint against the defendants,

ONE 2006 MERCEDES BENZ CLS 55 AMG SEDAN, CA LICENSE
NO. 6CQU031, VIN WDDDJ76X86A031811, ITS TOOLS AND
APPURTENANCES, (hereinafter "Mercedes" or "count one defendant
vehicle"),

ONE 2003 LAND ROVER RANGE ROVER SUV, CA LICENSE NO.
6AMN568, VIN SALMB11403A109536, ITS TOOLS AND
APPURTENANCES, (hereinafter "Range Rover" or "count two
defendant vehicle"), and

\$10,826.00 IN U.S. CURRENCY, (hereinafter "count three defendant
currency),

1 the United States of America alleges:

2 1. This Court has jurisdiction over this action by virtue of the provisions of Title 28,
3 United States Code, Section 1355, and Title 21, United States Code, Section 881.

4 2. Venue is proper in this district pursuant to Title 28, United States Code, Section 1395,
5 because the defendant properties were found within this district.

6 3. Beginning in early 2008, Drug Enforcement Administration special agents were
7 conducting an investigation of Antonio Franco ("Franco") regarding the distribution of
8 methamphetamine and marijuana. The investigation included information gained during surveillance
9 and through a state court authorized wire tap on Franco. Franco was overheard and observed
10 coordinating numerous narcotic transactions. The investigation led to authorization for a state search
11 warrant being obtained for 7594 Park Ridge Avenue, Unit 11, San Diego, CA, a location used as a stash
12 house and residence by Franco. The warrant was executed on March 20, 2008. During the search,
13 numerous firearms and \$10,826.00 in U.S. currency were located in the residence. Franco was placed
14 under arrest subsequent to the warrant being served.

15 When Franco was arrested, he waived his Miranda rights and agreed to speak with agents.
16 Franco first stated that by arresting him when they did, agents had just missed out on 3,000 pounds of
17 weed, and \$500,000.00 in U.S. currency. Franco admitted he was in Los Angeles to broker a marijuana
18 transaction between two parties. Franco also gave many other statements relating to ongoing narcotics
19 trafficking, and his connection to the trafficking. Franco then spoke of an instance in which he had
20 spotted DEA surveillance and how he lost the surveillance by changing clothes and leaving his Range
21 Rover at Joe's Tire Shop. When asked further about his Range Rover, Franco admitted it was payment
22 to him for a marijuana deal in which the vehicle was traded for a large amount of marijuana. Agents had
23 observed Franco driving the Range Rover vehicle many times during their surveillance, and had also
24 intercepted calls regarding Franco's possession of the vehicle.

25 Agents then asked Franco about his Silver Mercedes CLS 55. Franco stated the Mercedes
26 was also a payment for drugs. Then Franco told the agents they could not take the Mercedes because
27 it was not registered in his name. Franco also told the agents it was sold to a friend, and they would not
28 be able to locate the vehicle. On March 20, 2008, agents seized the vehicle from a cousin of Franco.

1 During the investigation the Mercedes was observed many times at locations frequented by Franco
2 including his residence and the residence of his girlfriend. During the execution of the search warrant,
3 agents located a bill of sale for the vehicle to a Jorge Mazon dated January 25, 2008. Documents
4 indicating Franco was the owner as of January 30, 2008 were also located. A second bill of sale for the
5 Mercedes from Mazon to Franco was also found. Franco admitted to agents that he sold marijuana, and
6 had no legitimate income.

7 Count 1

8 ONE 2006 MERCEDES BENZ CLS 55 AMG SEDAN

9 4. Paragraphs 1-3 are incorporated as a part hereof.

10 5. In and/or prior to March 20, 2008, the Count 1 defendant vehicle was a thing of value
11 furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
12 violation of Title 21 of the United States Code, Section 881.

13 6. Alternatively, in and/or prior to March 20, 2008, the Count 1 defendant vehicle
14 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
15 chemical in violation of Title 21 of the United States Code, Section 881.

16 7. Alternatively, in and/or prior to March 20, 2008, the Count 1 defendant vehicle was used
17 to facilitate narcotics trafficking activities in violation of Title 21, United States Code, Section 881.

18 8. Because of the aforementioned acts or uses alleged herein, either singly or in
19 combination, the Count 1 defendant vehicle is subject to forfeiture pursuant to Title 21, United States
20 Code, Sections 881(a)(6) and 881(a)(4).

21 9. The Count 1 defendant vehicle is presently stored within the jurisdiction of this Court.

22 10. The value of the Count 1 defendant vehicle is approximately \$57,675.00.

23 Count 2

24 ONE 2003 LAND ROVER RANGE ROVER SUV

25 11. Paragraphs 1-3 are incorporated as a part hereof.

26 12. In and/or prior to March 20, 2008, the Count 2 defendant vehicle was a thing of value
27 furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
28 violation of Title 21 of the United States Code, Section 881.

1 13. Alternatively, in and/or prior to March 20, 2008, the Count 2 defendant vehicle
2 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
3 chemical in violation of Title 21 of the United States Code, Section 881.

4 14. Alternatively, in and/or prior to March 20, 2008, the Count 2 defendant vehicle was used
5 to facilitate narcotics trafficking activities in violation of Title 21, United States Code, Section 881.

6 15. Because of the aforementioned acts or uses alleged herein, either singly or in
7 combination, the Count 2 defendant vehicle is subject to forfeiture pursuant to Title 21, United States
8 Code, Sections 881(a)(6) and 881(a)(4).

9 16. The Count 2 defendant vehicle is presently stored within the jurisdiction of this Court.

10 17. The value of the Count 2 defendant vehicle is approximately \$22,425.00.

11 Count 3

12 \$10,826.00 IN U.S. CURRENCY

13 18. Paragraphs 1-3 are incorporated as a part hereof.

14 19. In and/or prior to March 20, 2008, the Count 3 defendant currency was a thing of value
15 furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
16 violation of Title 21 of the United States Code, Section 881.

17 20. Alternatively, in and/or prior to March 20, 2008, the Count 3 defendant currency
18 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
19 chemical in violation of Title 21 of the United States Code, Section 881.

20 21. Alternatively, in and/or prior to March 20, 2008, the Count 3 defendant currency was
21 used or was intended to be used to facilitate a violation of Title 21 of the United States Code, Section
22 881.

23 22. Because of the aforementioned acts or uses alleged herein, either singly or in
24 combination, the Count 3 defendant currency is subject to forfeiture pursuant to Title 21, United States
25 Code, Section 881(a)(6).

26 23. The Count 3 defendant currency is presently stored within the jurisdiction of this Court.

1 WHEREFORE, the United States prays that due process issue to enforce the forfeiture of the
2 defendants, and that due notice be given to all interested parties to appear and show cause why said
3 forfeiture should not be declared.

4
5 DATED: July 8, 2008

6 KAREN P. HEWITT
7 United States Attorney

8 *David McNeess*

9 DAVID M. McNEES
10 Special Assistant U.S. Attorney
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, Ryan Sibbald, hereby state and declare as follows:

1. I am a Special Agent with the United States Drug Enforcement Administration.
2. I have read the foregoing complaint and know its contents.
3. The information in the complaint was furnished by official Government sources.

Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on July 7, 2008.



RYAN SIBBALD, Special Agent
Drug Enforcement Administration

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Office of the US Attorney SAUSA David M. McNees (619) 557-5979
880 Front Street, Room 6293, San Diego, CA 92101-8893

DEFENDANTS

One 2006 Mercedes Benz CLS 55, et al.

08 JUL -8 PM 1:07

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known) BY:

DEPUTY

08 CV 1220 IEG RBB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 21 U.S.C. Section 881

Brief description of cause:
 narcotics trafficking

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE: _____

DOCKET NUMBER: _____

DATE

July 8, 2008

SIGNATURE OF ATTORNEY OF RECORD

David McNees

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CR